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Human Rights Council
Twenty-ninth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-09249 (E)
1509249

Please recycle

The International community must address discriminatory punishment and treatment of women and girls that remains prevalent globally

1. Background

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) began over thirty years ago. Under this convention, state parties agreed to ensure gender equality and end gender-based discrimination. Article 2(g) of CEDAW obliges state parties to repeal all national penal provisions that constitute discrimination against women. However, many states, including many state parties of CEDAW, have failed to implement the domestic legislation and enforcement reforms necessary to comply with this obligation. As a result, women continue to face serious problems (including criminal sanctions) of both a type and scale not experienced by men. Primary areas of concern are the prosecution of women under adultery and fornication laws and the discriminatory treatment against women following the crime of rape. Many states also use custom-based courts in their legal systems. These courts worsen the situations of women accused under adultery and fornication laws or women who were victims of rape.

Such practices seriously violate women's rights under international law and they work as an effective tool to control the lives of women.

2. Maldives

Under *Sharia* law as commonly applied in the Maldives, a person convicted of the offense of extramarital "fornication" (*zina*, extramarital sexual intercourse) may be subject to punishment of up to 100 lashes and one year of house arrest or exile.[1]

Although legally, both men and women can be prosecuted for *zina*, in practice women are disproportionately convicted.[2] For example, according to data from the years 2005 to 2011, more than four or five times as many women as men were convicted of and publicly flogged for *zina*.[3]

In addition to discriminatory prosecution by law enforcement, a key contributing factor to the disproportionate conviction of women is that a woman's pregnancy alone may constitute sufficient evidence to convict her of *zina*.[4]

This evidentiary standard holds even though courts frequently reject forensic evidence as inadmissible or insufficient in the prosecution of men for fornication or sexual assault.[5]

In the Maldives, an unmarried pregnant woman could be sentenced to public flogging even without witnesses to her sexual act.[6] In contrast, a man accused of rape cannot be convicted—even with solid forensic evidence—

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[1] *See* "Judicial statistics show 90 percent of those convicted for fornication are female," *Minivan News*, October 1, 2012, http://minivannews.com/politics/judicial-statistics-show-90-percent-of-those-convicted-for-fornication-are-female-44605.

[2] *See* Hope Shadow Report, at para 287, figures 15, 16, 17 (reporting criminal court data for the years 2005-2011 provided by the Maldivian government).

[3] *Id*. *See also* US Human Rights Report on Maldives at 5.

[4] US Human Rights Report on Maldives at 18 (noting that "[d]iscrimination against women was a problem. For example, by December 24, a total of 87 cases of birth out of wedlock were reported to police, of which 80 cases were investigated and 67 forwarded to the prosecutor general.)"

[5] *Id*

[6] Perversely, the Maldivian penal system's punishment of unmarried women who become pregnant leads to desperate and tragic acts of abortion and infanticide by teenage girls. *See, e.g.*, "Abortion in the Maldives: the untold story," January 7th, 2010, http://minivannews.com/society/abortion-in-the-maldives-the-untold-story-2191; "Discovery of dead baby in outdoor shower a distressing reminder of the Maldives' failure to address unwanted pregnancies", *Minivan News*, June 26th, 2012, http://minivannews.com/society/discovery-of-dead-baby-in-outdoor-shower-a-distressing-reminder-of-the-maldives-failure-to-address-unwanted-pregnancies-39815;
"Comment: Death penalty for infanticide is infantile," *Minivan News*, July 9th, 2011, http://minivannews.com/society/comment-death-penalty-for-abortion-is-infantile-22507.

without his confession or sufficient third-party witness testimony.[7] Specifically, in the absence of a confession, the accused can be convicted only by the testimony of two male witnesses or four female witnesses.[8]

Therefore, under *Sharia* law as applied by Maldivian courts, a woman's own testimony of her rape is insufficient evidence to support a conviction against a man. The testimony of any female witness including the victim is given less weight than the testimony of any male witness.[9] So, while women are disproportionately convicted and flogged for extramarital sex, men who commit rape routinely walk free.[10]

3. Afghanistan

In Afghanistan, although rape is a crime under the EVAW Law, it is not a separate offense in the Penal Code and thus the perpetrator is rarely prosecuted for rape.

When rape is prosecuted, it is often prosecuted as the crime of *zina*, punishable by up to 15 years in prison. Women who are found to have participated in extramarital sexual relations can be found guilty of *zina* regardless of whether they consented to the sexual relation.[11] Prosecution in courts of law for acts of rape and other sexual violence against women is rare. Oftentimes victims fail to report their injury due to their fears of retaliation or being themselves accused and arrested on charges of *zina* or other crimes.[12]

Female victims' testimony is often discounted or disregarded entirely by courts of law; alternatively, victims are "treated as deserving of blame of committing *zina* because of actions that are seen as having led to the rape."[13] These actions include leaving the home without permission or voluntarily being in an unsafe location.[14]

These discriminatory legal situations regarding *zina* and rape still continue under Afghan laws. Under such practice, access to justice for female victims of sexual violence cannot be ensured.

4. Pakistan

In recent years, Pakistan has made efforts to update its laws to reflect its obligations under CEDAW. In 2006, the Women's Protection Bill was passed and has brought important changes to how rape is handled by Pakistani courts.

Under the Protection of Women (Criminal Laws Amendment) Act of 2006 ("Protection of Women Act"), rape cases must be brought under the Pakistan Penal Code, not under *Sharia* law.[15] Under *Sharia* law, a rape victim is guilty of adultery unless she produces four male witnesses to the assault.[16] The Protection of Women Act removes rape cases from *Sharia* courts' jurisdictions, thereby effectively reducing the evidentiary burden on rape victims. Convictions are made based on forensic and circumstantial evidence rather than based on the testimony of four male witnesses.[17] In addition, on December 23, 2011, the legislature passed the Prevention of Anti-Women Practices Bill as part of the Criminal Law (3rd Amendment) Act of 2011. This Act criminalizes acts committed against women in the name of traditional practices.[18]

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[7] US Human Rights Report on Maldives at 16.

[8] Maldives Fourth/Fifth CEDAW Report at 30.

[9] *Id.*

[10] *See, e.g.* "Rape victims punished, failed by Maldives justice system," *Minivan News*, February 27th, 2013, http://minivannews.com/society/raped-victims-punished-failed-by-law-in-the-maldives-53760.

[11] Human Rights Watch, *Afghanistan: Moral Crimes*, *available at* http://www.hrw.org/features/afghanistan-moral-crimes

[12] *Working Group Report* at 6.

[13] *UN Committee Submission*, under the heading "Abusive Use of Vaginal Examinations and Wrongful Imprisonment of Victims(Convention Articles 2, 16)", available at http://www.hrw.org/ja/node/117001

[14] *Id.*

[15] Syed Shoaib Hasan, *Strong Feelings Over Pakistan Rape Laws*, BBC NEWS (last updated Nov. 15, 2006), *available at* http://news.bbc.co.uk/2/hi/south_asia/6152520.stm.

[16] *See id.*; *The History of Rape in Pakistan*, FOREIGN POLICY ASSOCIATION (June 25, 2013), *available at* http://foreignpolicyblogs.com/2013/06/25/the-history-of-rape-in-pakistan/, and *Veils and Jails*.

[17] Qaiser Butt, *Women's Protection Law: Federal Shariat Court Verdict Due Today*, THE EXPRESS TRIBUNE (Nov. 23, 2010), *available at* http://tribune.com.pk/story/80570/womens-protection-law-federal-shariat-court-verdict-due-today/.

[18] Zia Khan, *National Assembly Passes Landmark Women's Rights Bill*, THE EXPRESS TRIBUNE (Nov. 15, 2011), *available at* http://tribune.com.pk/story/292165/prevention-of-anti-women-practices-bill-unanimously-approved-by-na/.

Although these reforms evidence progress for women's rights and criminal legal protections, women are still suffering various violence and human rights violations. For instance, honor killings remain prevalent. [19]

5. Recommendations

Although this statement illustrates discriminatory laws and practices in the Maldives and Afghanistan, many states maintain similar laws and practices throughout the world.

Under these laws, female victims of rape and sexual violence do not get effective remedy. These victims may even be prosecuted and severely punished for having extramarital sexual intercourse.

The discriminatory laws and practices severely deter women's empowerment, human rights, and access to justice. Such laws and practices significantly contribute to the embedded culture of impunity surrounding sexual violence against women.

Pakistan made efforts to reform its legal system to eliminate discriminatory punishment against women. It is of course a positive step; however, women are still subjected to traditional execution and honor killings.

Human Rights Now (HRN) urges all states to seriously review and repeal all discriminative laws and practices causing legal and de facto sanction against women and girls.

The international community should play an active role and take concrete steps to repeal all discriminative laws and practices against women and girls.

HRN calls on both the Working Group on the issue of discrimination against women in law and in practice and the Special Rapporteur on violence against women, to conduct in depth investigation in this regard and make effective recommendations.

Additionally, we urge the Human Rights Council and General Assembly to pass resolutions to address this particular matter.

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[19] AFP, *Three Women Shot Dead in "Honour Killing"*, DAWN (last updated Sept. 16, 2013), *available at* http://www.dawn.com/news/1043276/three-women-shot-dead-in-honour-killing.

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Human Rights Council
Twenty-ninth session
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by the Al Mezan Centre for Human Rights, ADALAH - Legal Center for Arab Minority Rights in Israel, Al-Haq, Law in the Service of Man, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Addressing Persistent Failures of Israeli Domestic Investigations and Necessary Steps to End Israeli Impunity

As independent human rights organizations working to protect the rights of Palestinian residents of the Occupied Palestinian Territory (OPT), we welcome the opportunity to contribute to the Human Rights Council (HRC), particularly Agenda Item 7. We are deeply concerned, and request intervention by the HRC to effectively address:

- The ongoing lack of domestic accountability in Israel for serious violations of International Humanitarian Law (IHL) and International Human Rights Law (IHRL), such as those committed in the context of repeated Israeli military operations in the Occupied Palestinian Territory, particularly the Gaza Strip, but also in the occupied West Bank (including East Jerusalem);
- Israel's persistent non-cooperation with independent international investigations, such as the HRC"s 2009 Fact-Finding Mission into the Gaza Conflict (Goldstone Mission) and the Council's current Commission of Inquiry on the 2014 Gaza Conflict, as well as the relevant UN Special Procedures; and
- Israel's unlawful prolonged military occupation of the OPT, including the eight-year closure/blockade of the Gaza Strip, which is the root cause of recurring violence and ongoing violations of the human rights of Palestinians.

According to a coalition of four Palestinian human rights organizations in Gaza,[1] between July and the end of August 2014, 2,217 Palestinians were killed during "Operation Protective Edge", Israel's massive military operation in the Gaza Strip. Al Mezan Centre for Human Rights in Gaza (Al Mezan) documented the killing of 556 children and 293 women during the Israeli military offensive, the vast majority of whom were killed inside their homes.[2] The Israeli military directly targeted, destroyed and damaged civilian and public infrastructure en masse, including medical, sanitation, education, and electricity facilities. At least 31,974 housing structures were completely destroyed or sustained significant damages.[3], [4] According to OCHA, between June and August 2014, 27 Palestinians, including five children, were also killed in the occupied West Bank, including East Jerusalem.[5] In this same period, Israel's continued expansion of its illegal settlements in the occupied West Bank (including East Jerusalem) was accompanied by a campaign of collective punishment and forced displacement.[6]

To date, Israel's investigations into Operation Protective Edge fall far short of the international standards of independence, impartiality, effectiveness, promptness and transparency. The vast majority of civil and criminal complaints made respectively to the Israeli Defence Ministry's reparations department and the Military Advocate General (MAG) remain unanswered or have already been closed, indicating that, as in the past, the perpetrators will not be held accountable for serious IHL and IHRL violations against Palestinians.[7] This submission illustrates this persistent pattern of Israel's failure to investigate the actions of the Israeli military in accordance with international standards, and also addresses the barriers imposed by Israel on Palestinians in Gaza from accessing Israeli courts.

In 2009, the Goldstone Mission, charged with investigating all violations of IHL and IHRL during Israel's "Operation Cast Lead" concluded that, "there are serious doubts about Israel's willingness to carry out genuine investigations in an impartial, independent, prompt and effective way as required by international law."[8] According to the Follow-up Committee of Independent Experts that monitored the implementation of domestic investigations, Israel's practice of opening only a very small number of investigations into alleged violations by its military casted doubt on the impartiality of the system in general, and of the MAG in particular.[9]

Despite Israel's contention that investigations have improved in accordance with the recommendations of its government-appointed Turkel Commission, there has been no significant progress. Whereas the Turkel Commission Report (2013)[10] did identify serious shortcomings in Israel's investigatory mechanisms, its recommendations did not address the "dual role" played by the MAG, nor the absence of clear or written legal norms anchored in international law that would guide the circumstances under which the MAG will open investigations. Finally, although two years have passed since the issuance of the Turkel Report, Israel has implemented almost none of the recommendations.

Thus, domestic Israeli investigations continue to deviate substantially from international law requirements, including:

- Lack of independent investigatory mechanism (independence/impartiality): The Israeli military's newly established Fact-Finding Assessment Mechanism (FFAM) belongs to and is under the authority of the military, and is still within the hierarchy and internal organization of the army;
- Vague arguments about the existence of military necessity and military targets: The MAG does not offer any evidence used to justify the attacks against civilians or civilian objects, such as why the attacks were militarily necessary, or how, when, and where the objects were used for militaristic purposes;
- Lack of a time frame for examinations and investigations (promptness);
- Unwillingness of the MAG to disclose information on witnesses and testimonies, and other evidence (transparency): In its responses, the MAG emphasized that all investigative material is classified or "secret," including the identity of the witnesses, which raises suspicion regarding the validity and accuracy of the evidence; and
- Unclear circumstances under which the MAG will open an investigation

Palestinians, in particular residents of the Gaza Strip, also face severe barriers to access Israeli courts in civil compensation cases against the Israeli military. Due to the severe restrictions of movement imposed by Israel's eight-year blockade of the Gaza Strip, which limit exit permits to exceptional and urgent humanitarian cases, Palestinians are denied the right to appear at evidentiary hearings in cases against the Israeli military, which leads to their cases being dismissed. In addition, Israel also imposes numerous barriers such as a shorter statute of limitations[11] and high financial guarantees[12] that essentially prevent Palestinians from Gaza from receiving civil remedies and compensation for their injuries by the military from Israeli courts.[13]

In December 2014, the Supreme Court contradicted a 2006 decision and upheld the onerous regulations set by the State Attorney's Office.[14,15] In practice, the 2014 decision effectively closes the doors of the Israeli courts to Palestinian residents from Gaza for their civil compensation claims, which thereby constitutes a further serious breach of Israel's obligations under international law.

The lack of accountability in Israel for its repeated severe violations of IHL and IHRL fosters a culture of impunity that ensures the repetition of its devastating military assaults, and the continuation of its prolonged military occupation of the OPT. Further, Israel's refusal to cooperate with independent international mechanisms has profound implications for the protection of human rights worldwide. Accordingly, we call on the HRC and members states to:

1. Conclude that, to date, Israeli domestic investigations demonstrate an unwillingness and inability to genuinely carry out investigations or prosecutions in compliance with international standards;
2. Condemn Israel's persistent non-cooperation with UN Mechanisms, including the COI and Special Procedures;
3. Demand that Israel immediately lift the closure/blockade of the Gaza Strip and cease collective punishment of Palestinians in the OPT, including East Jerusalem;
4. Demand that Israel remove all barriers for Palestinians to access Israeli courts to pursue civil claims against the Israeli military's unlawful actions that include killings and damages;
5. Fully support any findings of the COI that call on Israel to comply with IHL and IHRL rules and norms including the investigation of and accountability for all violations and the right of the victims to redress and reparation in accordance with international standards; and
6. Reiterate that Israeli violations of IHL and IHRL are rooted in Israel's prolonged military occupation of the OPT, whose inherently discriminatory features thwart the pursuit of justice for Palestinian victims.

[1] Al Mezan, Al-Haq, Palestinian Center for Human Rights, and Al Dameer Association for Human Rights – Gaza.
[2] See also Al-Mezan and Lawyers for Palestinian Human Rights (LPHR), Joint-complaint concerning destruction and damage to family houses in the Gaza Strip
http://mezan.org/en/details.php?id=19551&ddname=IOF&id2=7&id_dept=30&p=center (updated complaint pending).
[3] OCHA, Gaza Emergency Situation. http://www.ochaopt.org/documents/ocha_opt_sitrep_27_08_2014.pdf
[4] Al Mezan Centre for Human Rights database of monitoring conducted by four human rights organizations.
[5] See OCHA, Humanitarian Bulletin Monthly Report June – August 2014, p.3.
http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf.
[6] Civic Coalition for Palestinian Rights in Jerusalem, Occupied East Jerusalem Report to the COI. 31 January 2015.
[7] For details about the status of the complaints filed by Adalah and Al-Mezan, see Adalah's Report to: The United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict, 31 January 2015, pp.14-16.
http://www.adalah.org/uploads/Adalah-Submission-UN-COI-Gaza-2015.pdf.
[8] Report of the United Nations Fact-Finding Mission on the Gaza Conflict, U.N. Doc. Para. 1832 A/HRC/12/48 (September 25, 2009).
[9] Of the 400 incidents examined by the military, only three resulted in indictments, and the most severe punishment delivered for credit card theft. See HRC, Report of the Committee of independent experts in international humanitarian and human rights law pursuant to Council resolution 13/9, U.N. Doc. Para.24, A/HRC/16/24 (May 5, 2011); see also Amnesty International, Families Under the Rubble (2014) at 40.
http://www.amnesty.org/en/library/asset/MDW15/032/2014/en/613926df-68c4-47bb-b587-00975f014e4b/mde1503222014en.pdf.
[10] The Second Turkel Commission Report "Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law".
http://www.turkelcommittee.gov.il/files/newDoc3/The%20Turkel%20Report%20for%20website.pdf.
[11] Section 5a(c) of the Civil Wrongs Law shortens the statute of limitations from seven to two years in lawsuits submitted against the state concerning actions of the security forces.
[12] The average sum of the guarantee is NIS 30,000 (EUR 6,730).
[13] For examples of cases dismissed because of Israel's policy of denying entry, see Adalah COI, pp.23-26.
[14] HCJ 7042/12 Maher Abu Daqqa v. Minister of the Interior.
[15] HC 8276/05, Adalah, et. al. v. The Minister of Defense, et. al. (decision 12 December 2006).

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Alulbayt Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Bahrain Judicial system as a political punishment

According to Bahrain constitution issued by the authority in 2002, concerning the Judicial authority in chapter four, article (104), it states that "A The honor of the Judiciary, the integrity of the Judges and their justice will be the basis of rule and the guarantee of rights and liberties"

" B No one has any power over the Judge in the administration of justice Under no circumstance will there be interference with the course of justice and the law guarantees the independence of the judiciary The law will describe the security for the Judges and the special regulation in their respect "

"C The law will lay down special rules for public prosecution, the duties of giving legal advice, legislation, representing the State before the Judiciary and those working in this field."

"D The law will lay down the rules for legal practice "

The judiciary in Bahrain has been monitored by local and international human right organization, and this is due to the people complaints, lawyers statements, judges' behaviors and facts issued by local media which give serious concern on the judicial authority practice that oppose with the written law

SALAM for democracy and human rights have been following the judicial practice in the past year and have examine many of the cases that give clear evidence that judicial authority - which is formed and headed by the king himself - is another political tool to oppress opponents in general and protect and, acquit members of authority.

There is hundreds of evidence; however the following provide you with two major human rights organization report and 2 individual cases which confirm that Judiciary in Bahrain is exploited as a political punishment mechanism

- Human rights watch 2014 Criminalizing Dissent, Entrenching Impunity, Persistent Failures of the Bahraini Justice System since the BICI Report [1]
- Amnesty international- report 19 April 2015: in many cases that Amnesty International has reviewed, defendants were denied prompt access to legal assistance or their allegations of torture in pre-trial detention were dismissed without adequate investigation by prosecution and courts. Defence lawyers were often denied full access to case files, impeding or denying them the means to prepare an adequate defence, not permitted to fully cross-examine witnesses, and had requests to call independent experts on certain matters rejected or ignored. Courts generally relied on information provided by preliminary police investigations as evidence or information from police informants, and either failed to order independent investigations into defendants' allegations of torture by police to coerce "confessions" that they refuted in court or to delay trials until investigations had been carried out. Many defendants serving lengthy prison terms or sent enced to death were convicted by courts largely on the basis of "confessions " that they provided to police in pre-trial detention that they alleged were obtained through torture [2]

1- Victime Fadhil Abbas murderer acquitted
Bahraini courts acquitted a security officer from the deliberate killing of the victime Fadhil Abbas who was shot with live ammunition

2- Sh Ali Salman trial
Defence team member, Lawyer Dr Hassan Radhi : "court breached rights of defence panel by not allowing us to present core evidence to refute accusation against Sh Ali Salama"
Defence team member, Lawyer Jalila Al Sayed "The judge ask if the defence panel had anything to add , we said we wanted to present our evidence but he ended the session"

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[1] http://www.hrw.org/sites/default/files/reports/bahrain0514_forUpload.pdf

[2] http://t.co/zCqITbfjvg

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Human Rights Council
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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Al Mezan Centre for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Through IHL and IHRL: Lifting the Closure and Securing Accountability

The Al Mezan Centre for Human Rights (Al Mezan) presents this statement in the absence of effective justice, denial of redress, and lack of appropriate reconstruction for the Palestinian population of the Gaza Strip from Israel's July-August 2014 full-scale military assault on Gaza. Al Mezan calls for support for the collective measures currently underway to secure accountability and access to justice for the Palestinian victims of Israeli mechanisms of occupation and closure/blockade. The groundwork for justice requires the complete and unconditioned lifting of Israel's closure of the Gaza Strip that results in the infringement of basic and inalienable rights of the Palestinian people and maintains a wholly unsustainable situation amounting to a protracted humanitarian crisis. Further, justice and reparations are essential for the tens of thousands of civilian victims of the closure/blockade of the last eight years.

Military offensive

On 7 July 2014, Israel launched a full-scale military offensive it codenamed 'Operation Protective Edge' (OPE). The 51-day offensive was comprised of an intense campaign of military attacks by land, air, and sea against the Gaza Strip. The offensive resulted in the killing of 2,217 people in Gaza by Israeli forces, including 293 women, 42 people with disability, and 556 children.[1]

Four-year-old Seba from Tal Al Sultan, Rafah was one of the many children killed at home, asleep in bed. She was described as a calm and very intelligent child. She was said to also be stubborn sometimes. Seba liked ice cream, and a few days before her death she told her father that she had had a dream that the war was over and she was eating ice cream with her friends. She was anxious and excited to start kindergarten in the autumn. On 21 August 2014, the neighboring house to Seba's was bombarded by several Israeli missiles. Seba and her sister were sleeping in a nearby room. Seba's father said that concrete blocks and columns covered her little body. She was seriously injured and was taken to the hospital. She died after a while. Of the total fatalities, 1,066 people were killed in their homes; 370 of those killed were children like Seba.

Israeli forces either partially or fully destroyed at least 31,974 housing structures, many of which hosted multiple housing units. Israeli forces destroyed and damaged civilian and public infrastructure en masse, including medical, sanitation, education, and electricity facilities. The destruction continues to compound the longstanding violations from the closure/blockade, including on the right to health, right to adequate housing, and right to an adequate standard of living.

Closure

Additionally, from 1 September 2014 until 25 May 2015, Al Mezan documented over 129 incidents of torture and cruel, inhuman and degrading treatment (CIDT) by Israeli forces and authorities of Palestinians in Gaza seeking medical care in Israel or the West Bank, in Israeli prisons, and of fishermen. The incidents of torture and CIDT were carried out as an extension of the policy of closure, where arrests of people in or near the Israeli-controlled buffer zone, of fishermen, and of patients, continue to increase in number. In the same timeframe, one farmer and one fisherman were shot and killed by Israeli forces, while dozens more were injured in their fields and fishing boats.

At present, the Gaza population remains systematically denied basic services and needs including goods, food, medicine, infrastructure, and access to education and healthcare. These restrictions affect the life and wellbeing of the whole population while placing vulnerable populations, such as children, women, older people, and people with disability, at a higher risk of infringement. As reported by the International Committee for the Red Cross (ICRC) in 2010, such restrictions, inflicted on an indiscriminate number of persons, amount to a form of collective punishment of a civilian population in violation of the absolute prohibition included in Article 33 of the Fourth Geneva Convention (IVGC).

The temporary ceasefire agreement that became active on 26 August 2014 included provisions of renewed terms for Israel's closure/blockade of the Gaza Strip. At present, Israel has not implemented measures to meaningfully ease restrictions or improve the humanitarian crisis.

Reconstruction

The Gaza Reconstruction Mechanism (GRM) is inefficiently slow against massive destruction and has not resulted in appropriate rebuilding. The GRM further institutionalizes the closure/blockade by operating under the Israeli instituted mechanisms of control. The GRM lacks necessary components of accountability and oversight and inappropriately benefits the Israeli economy. According to Oxfam International, at the current rate of reconstruction and without lifting the closure/blockade, it could take more than 100 years to rebuild Gaza's "housing, education, and health infrastructure".[2]

Accountability

The link between the closure policy and Israel's lack of accountability is evident in the Israeli government's denial of Palestinian victims' physical access to Israeli courts, which results in the dismissal of their cases. The evidence from Al Mezan's continued engagement with Israel's investigatory mechanisms demonstrates that as the institutions stand, the mechanisms do not function to hold political leaders and military commanders to account and do not comply with international standards of the duty to investigate.

Al Mezan is currently pursuing 89 serious requests for criminal investigations into the actions of Israeli forces during the bombardment with Israel's Military Advocate General. To date, two cases have been closed without any preliminary investigation and five cases have been opened for preliminary investigation; four of these investigations are being conducted into theft by Israeli soldiers. Al Mezan also submitted notifications of intention to file civil compensation cases to the Ministry of Defence on behalf of 287 victims in serious attacks by Israeli forces during OPE; however, Al Mezan has not yet received a response from the Ministry.

Self-determination

A previous petition to Israel's Supreme Court to end the blanket ban on student travel from Gaza to the West Bank was dismissed by the Court despite the failure of the State to provide any evidence that the movement of students poses security risks. The ban, in violation of Article 13 of ICESCR, has remained in effect since 2000. Hindering the normal functioning of the Palestinian education system, the ban hampers development without any lawful justification. The Israeli government informed the Court that the ban was motivated by pursuing a policy of separation between Gaza and the West Bank, and not by specific security concerns. One of the female students is an example of this policy at work: she had previously been granted a permit to access the West Bank for a work conference and had therefore passed a security check deeming her not a threat to Israel; however, when she applied for permission to access a Palestinian university in the West Bank, her permit was explicitly denied.

The closure policy must be seen in the context of Israel's efforts to prevent Palestinian self-determination, fragment the occupied Palestinian territory, and annex land. The closure policy is not a security measure, but rather a political measure to serve Israeli strategic aims.

We are therefore urging the Honorable Council to consider two matters of primary concern:

- The illegal occupation and closure of the Gaza Strip is preventing the population from rebuilding, healing, and breaking out of the protracted effects of Israel's most recent bombardment. The closure policy also hinders the already obstructed avenues towards justice. Accountability initiatives must therefore be taken in conjunction with swift measures to enable the Palestinian population of Gaza to achieve an adequate standard of living.
- The initiatives currently underway to secure justice and accountability internationally, both through the imminent publishing of the Commission of Inquiry's report and through the International Criminal Court, have

been repeatedly undermined, obstructed, and delayed. The actions therefore require the full support and backing of the Honorable Council and the international community in line with UN principles of justice and international law.

Al Mezan remains aware of the political forces that continue to dictate Palestinian access to justice and Israeli accountability. Israel's infallible system of impunity maintains through a lack of political will to establish effective mechanisms. This reality has encouraged the endurance of Israel's occupation and allows Israel to disregard the legal and moral obligations emanating from forced occupation on the population of the occupied Palestinian territory. Al Mezan therefore urges the Honorable Council to ensure that the framework through which a just and durable solution for Palestinians is formulated is in line with and governed by the UN agreed principles of human rights and international humanitarian law.

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[1] Database of four Palestinian human rights organizations conducting monitoring: Al Mezan Centre for Human Rights, Palestinian Center for Human Rights, Al Haq Law in the Service of Man, and Al Dameer Association for Human Rights

[2] Oxfam International. Vital Building in Conflict Damaged Gaza to Take More than a Century at Current Rate. N.p., 26 Feb. 2015. Web. https://www.oxfam.org/en/pressroom/pressreleases/2015-02-26/vital-building-conflict-damaged-gaza-take-more-century-current

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Human Rights Council
Twenty-ninth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-09261 (E)
1509261

Please recycle

Japan: Excessive interference of the government/ruling party to the media and journalists

1. Introduction

Recent actions taken by the government and ruling party in Japan have raised serious concerns over the freedoms of press and expression and the right to access information.

First, the 2013 Act on the Protection of Specially Designated Secrets (hereinafter "Secrecy Act") allows the Japanese government to block public access to information designated by the government as a state secret, while also providing severe criminal penalties for those who disclose such secrets. The Act poses a substantial risk of infringing on the freedom of expression and right to information.

Second, the government and ruling party in Japan have escalated their pressure and interference over the media, in particular broadcasting media. Recently, two broadcasting companies, TV Asahi and NHK, were summoned by the investigative committee in the ruling party over the contents of their TV programs.

Third, the government confiscated the passport of a free journalist who merely planned to visit Syria.

Human Rights Now(HRN) is gravely concerned that this series of interferences threatens the autonomy of the media in Japan.[1]

2. Concerns over the Secrecy Act

1) Broadness and Vagueness of the Secrecy Act

Under the Secrecy Act, information that can be designated as secret fall under four broad categories: defense, diplomacy, counterintelligence, and counterterrorism. The heads of government agencies have sweeping powers to designate information falling under these categories as secret. The Act itself does not specify any clear objective criteria for defining what may be designated a secret.

In October 2014, the government finalized a set of guidelines for implementation (hereinafter "Guidelines"). The Guidelines provide certain criteria for designating information as secret.[2] However, the Guideline allows a wide range of information to be designated, and it does not prevent arbitrary designations.

2) Punishments

Article 23(1) of the Secrecy Act punishes unauthorized disclosures of the designated secrets committed intentionally or negligently by those handling "secrets" as part of their duties.

Intentional disclosures are punished by up to ten years imprisonment. Additionally, those who are found complicit in intentional leakages of "secrets" may also face punishment of up to five years imprisonment under Article 25(1). These penalties are excessive and will have a chilling effect on whistle blowers.

3) Lack of Protections for Whistle blowers and Journalists Creates a Chilling Effect

The Secrecy Act provides no protections for whistle blowers. Although the Whistle blower Protection Act (hereinafter "WPA") was enacted and enforced before the Secrecy Act, the scope of protection of whistle blowers under the WPA is limited to civil liability and does not cover criminal liability under the Secrecy Act.

The government established internal procedure for whistle blower's communication under the Guidelines by setting up reporting desks in the cabinet office and ministries, however, the system is not effective.

First, the Guidelines require whistle blowers to report wrongdoing without stating the designated secret itself. Thus, whistle blowers can only speak in generalities.

Second, whistle blowers must report wrongdoing primarily to the desks in each ministry before to the cabinet office.

Third, the independence of the desks in each ministry is not guaranteed since the persons in charge of the reporting desks are bureaucrat in the ministry.

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[1] Human Rights Now is a Tokyo based international human rights NGO with ECOSOC consultative status. A Japan based lawyers groups, the League of Lawyers Against the State Secret Act(LLASSA) is associated with this statement on the part of Secrecy Act.

[2] Liberal Democratic Party of Japan, https //www jimin jp/english/news/126424 html

Journalists may also face criminal penalties under the Secrecy Act. Because Article 23(2) includes criminal penalties for those who receive and subsequently disclose "secrets", journalists fall within the scope of the Secrecy Act. Article 22(2) does exclude news coverage from prosecution as long as it is performed in the public interest, lawfully, and not using extremely unreasonable means. However, these terms are vague to allow arbitrary interpretation. As such, journalists may still be included.

3. Concerns over Government Interference in the Media

1) LDP's demands to the Media

Recently, the Japanese government vocally and openly demanded "neutral and fact based media reporting", in particular on political matters, to the broadcasting companies by invoking the Japanese Broadcast Act.[3]

In November 2014, the ruling party LDP sent a letter to all the major broadcasting companies demanding "fair and neutral reporting." Further, LDP sent an additional letter to TV Asahi criticizing its reports over PM Abe's economic policy, and reiterated its demand for "fair and neutral reporting." [4]

Although LDP claims this was not "pressure", some believe it is an implicit threat against the media, considering the fact that the government has control over broadcasting licenses under the Broadcast Act.

2) Media was summoned and threatened for removal of broadcasting licenses

Recent case of LDP' involvement with TV Asahi and NHK is another grave concern.

On April 17, 2015, the LDP investigative committee summoned executives from both stations to explain certain "scandals" that had recently plagued the television stations. In the case of TV Asahi especially, the summons was in response to an incident in which a commentator had suggested on air that he was being removed from the TV news program "Hodo Station" due to pressure from the Cabinet office. The commentator, Mr. Koga had been a frequent critic of the Abe administration.[5]

Immediately after Koga's comment, Chief Cabinet Secretary denied the fact and criticized the reporting of TV Asahi by invoking the Broadcast Act. This led to an apology on the matter by the executive of TV Asahi.

After the investigative meeting, the head of the LDP committee suggested that LDP will consider filing a complaint to the Broadcasting Ethics and Program Improvement Organization (BPO). He noted *"We will act upon the Japanese Broadcast Act when reporting distorts the fact. The government has power to remove licenses."*[6]

3) Excessive interference is not consistent with international and domestic law

This series of threats and interferences will have a chilling effect on media reporting and could impair free speech.[7] In fact, the Broadcast Act requires stations to seek approval for broadcasting licenses and renewals. If the government removes licenses from broadcasting companies which do not follow government requests, it is impossible for the Japanese media to remain autonomous and impartial.

The Japanese Broadcast Act guarantees freedom of expression for broadcasting companies.

The purpose of the Broadcast Law, as defined in Article 1, is to "ensure freedom of expression through broadcasting by guaranteeing the impartiality, truth and autonomy of broadcasting". Further, Article 3 provides that broadcast programs will not be interfered with or regulated except as pursuant to the law.

The Abe Administration and LDP frequently invoke Article 4 of the Broadcast Act, which requires broadcasters to be politically neutral and not distort the facts. However, the article is interpreted that each media company shall make an effort to meet its responsibilities voluntarily. Given Article 3, even Article 4 cannot justify government interference with the media.

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[3]The Economist (16 May) Available at: http://www.economist.com/news/asia/21651295-japans-media-are-quailing-under-government-pressure-speak-no-evil

[4]Asahi Shimbun (10 April) Available at: http://www.asahi.com/articles/ASH4B3SDNH4BUTFK004.html?iref=reca and see Japan Times (22 April) Available at: http://www.japantimes.co.jp/opinion/2015/04/22/editorials/political-pressure-broadcasters/#.VV3yIPmqqkr

[5]The Guardian (16 April) Available at: http://www.theguardian.com/world/2015/apr/16/japanese-media-political-pressure-shinzo-abe-critic

[6]Asahi Shimbun (18 April) Available at: http://www.asahi.com/articles/DA3S11710894.html

[7]Asahi Shimbun (17 April) Available at: http://ajw.asahi.com/article/views/editorial/AJ201504170037

The threats and interference of the government is not consistent with the Article 21 of Japanese Constitution or the Article 19 of the ICCPR.

4 Confiscating a Passport from a free journalist

In February, the Japanese government suddenly confiscated the passport of Mr. Yuichi Sugimoto, a free journalist who planned to visit Syria.[8] The confiscation came immediately after a video release of two Japanese being killed, including journalist Kenji Goto by ISIS. It was a measure to prevent the journalist from traveling to Syria. The government defended its decision as necessary to "secure the safety of" Japanese overseas.

In March, Sugimoto applied for new passport, but he has given a passport with prohibitions to travel to Syria and Iraq. Without passports, journalists cannot work on international affairs, especially situations of armed conflict. Excessive restrictions on journalists constitute clear violations of the freedom of press and access to information.

4. Recommendations

This series of incidents shows an escalation of government control over media and journalists. Enforcement of the Secrecy Act, confiscation of passports, and intimidation through the removal of broadcasting licenses will cause a substantial chilling effect across the entire media and field of journalism in Japan.

HRN urges the Japanese government

To respect and protect freedom of expression in accordance with ICCPR Article 19

To refrain from any interference to the Japanese media.

To review the Special Secret Act in accordance with ICCPR Article 19

HRN calls on the international community, OHCHR and this Council

To recommend the Japanese government improves the situation of freedom of expression

HRN asks the UN special rapporteur on the freedom of expression

To conduct a fact finding mission to Japan to address the issues described in this statement.

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[8] Japan Times (9 February) Available at: http://www.japantimes.co.jp/news/2015/02/09/national/foreign-ministry-takes-freelance-photographers-passport-prevent-trip-syria/#.VWAtaukw95F

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the Franciscans International, Commission of the Churches on International Affairs of the World Council of Churches, International Youth and Student Movement for the United Nations, non-governmental organizations in general consultative status, Union of Arab Jurists, General Arab Women Federation, non-governmental organizations in special consultative status, International Educational Development, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1509262

Please recycle

Human Rights and Climate Change*

There is likely no greater threat to human rights in the 21st Century than climate change. More than 100 million sub-Saharan Africans will die from the adverse effects of climate change. Ambassador Lumumba Daping of the G77 warned the world in 2010 at the Copenhagen Climate Summit, unless adequate action is taken to protect the human rights of individuals and peoples from climate change, which is caused by human beings over-exploitation of our common atmosphere today and for the past two or more years. To date the action needed to prevent the tragic and massive violation of human rights has not been taken. The Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) to be held in Paris late this year may be our last chance to take the global action that is necessary to protect the vital interests of the most vulnerable people on earth. This 29th Regular Session of the Human Rights Council may be the last opportunity that the Council has to encourage States to take the action that is need to protect all people from the adverse effects of climate change.

Attached below is our proposal containing the elements of a draft resolution by the Member States of the Council that would show their resolve to protect the human rights of all people from climate change. Realizing the political complexities of the climate change issue and the ongoing UNFCCC negotiations, the last round from 1 to 11 June 2015, we hope that this proposal will be the minimum that can be achieved by the Council. Anything less will send the signal to States that their governments are not ready to act to adequately protect them from the threats to their human rights that are posed by the adverse effects of climate change.

We hope States will reflect very seriously on these proposed elements as they reflect what has been agreed in the past and what must be agreed in the future. The minimal action of creating a Special Rapporteur on human rights and climate change is something that civil society unanimously requested at the 2010 Social Forum of the Council that was focused on human rights and climate change. Civil Society has repeatedly said that we must not merely continue to discuss this issue as some States have suggested, but that we must take action to implement unambiguous actions that well-established international law prescribe for States in the realm of both international climate change and human rights law. While international human rights law obliges States to ensure the human rights of all people under the jurisdiction of each State, international climate change law prescribes legal obligations for States requiring them to act as prescribed by the UNFCCC in relation to the threat to human rights posed by climate change.

To date the Council has adopted five resolutions, held a panel, a seminar, a full-day discussion and requested and received a report of the OHCHR on climate change. The full-day discussion held on 6 March 2015, while welcomed, continues a trend of discussion and no action despite the existence of readily available science evidence about the adverse effects of climate change on human rights and the existence of elaborated legal obligations that indicate how states should act to prevent the violation of their peoples' human rights.

It is thus the spirit of cooperation and partnership and with an unyielding commitment to responsible action that the NGOs joining this written submission offer the below concrete elements for a Council resolution on human rights and climate change.

Elements of a Council resolution on human rights and climate change

1. The Council should be guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, the International Covenant of Economic, Social and Cultural Rights and other relevant human rights instruments.

2. The Council should reaffirm the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the objectives and principles thereof, particularly the principle of common but differentiated responsibilities and respective capabilities.

3. The Council should reaffirm the Rio Declaration on Environment and Development, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Johannesburg Declaration on Sustainable Development, and the Plan of Implementation of the World Summit on Sustainable Development.

4. The Council should recall its resolutions 7/23 of 28 March 2008, 10/4 of 25 March 2009, 18/22 of 17 October 2011, 26/L33 on 23 June 2014 on human rights and climate change, which recognize the significant impacts of the adverse effects of climate change on the effective enjoyment of human rights.

5. The Council should recognize that the historic overuse of atmospheric space by developed countries has additional negative impacts on the enjoyment of human rights in developing countries, as well as on the right to development.

6. The Council should note that States' legal duty to cooperate internationally to achieve universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion is of renewed importance in the face of the impacts of climate change on human rights.

7. The Council should stress the primary responsibility of states to protect all its citizens under its jurisdiction as well as in the broader international community against the impacts of climate change on human rights.

8. The Council should decide to create the mandate of the Special Rapporteur on human rights and climate change for a period of three years, who shall report on the impact of climate change in view of the equitable use and historical responsibility of States for their use of the atmospheric space, in relation to all human rights with an emphasis on the right to development and requests the Special Rapporteur submit a report to the Council for consideration at its thirty-second session and requests that the Office of the High Commissioner for Human Rights to provide the independent expert with all necessary assistance to discharge the mandate fully.

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*International-Lawyers.Org, NGO without consultative status, also shares the views expressed in this statement

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Written statement* submitted by the Liberal International (World Liberal Union), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Deterioration of the State of Political and Civil Rights Around the World

Liberal International (LI) welcomes the latest initiative of the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, His Excellency Juan Mendez, calling for the adoption of the revised Standard Minimum Rules for the Treatment of Prisoners, proposed as the "Mandela Rules," and reiterates its full support to the implementation of his mandate.

This statement would like to pay particular attention to the recent intensification of the persecution and prosecution of pro-democracy activists and political and civil rights defenders in the following countries:

Azerbaijan:

-Noting that allegations of 'drug abuse,' 'illegal entrepreneurship' and 'tax evasion' have become a penal instrument commonly used for putting political and civil activists to jail in Azerbaijan

-Recognizing that the systematic use of criminal justice against recognised and vocal political opponents in Azerbaijan has recently lead to long-term imprisonment of civil society activists Rasul Jafarov, Intigam Aliyev, Leyla Yunus, Arif Yunus and journalist Khadija Ismayilova

-Stressing the fact that the recent sentencing of Faraj Kerimli, Deputy Chair of the Azerbaijani *Musavat* Party (member of LI cooperating Organisation the Alliance of Liberals and Democrats for Europe Party or ALDE Party), to 6.5 years in prison is politically motivated and he has now been formally recognized as a prisoner of conscience by Amnesty International

Bolivarian Republic of Venezuela:

-Regarding the new military tactics law which targets peaceful domestic demonstrations as a direct violation to the right of the Venezuelan citizens to freely express themselves which is clearly enshrined in and protected by the Universal Declaration of Human Rights, to which the Bolivarian Republic of Venezuela is a signatory

-Emphasizing that at the heart of every functioning democracy in the society of states lays the right to freedom of speech, including the right of citizens to participate in public demonstrations

-Condemning the on-going political witch-hunt against members of the Venezuelan opposition and civil society including but not limited to the recent imprisonment of Leopoldo Lopez and the on-going legal harassment against the leader of the liberal opposition Maria Corina Machado

Cuba:

-Noting with great concern that the harassment and persecution of any political opposition in Cuba has reached an unprecedented level despite the small steps undertaken by the Cuban government to open the economy and allow for freedom of travel

-Acknowledging that the Cuban government regularly violates freedom of speech and human rights with Cuban citizens far from obtaining real freedom, democracy and private property

-Stressing the fact that almost 3 years after the death of Cuban dissident Oswaldo Paya his suspicious car incident still awaits proper investigation

-Emphasizing on the fact that the responsibility to end oppression lies with the Castro government

Malaysia:

-Stressing the fact that the recent imprisonment of Anwar Ibrahim, Leader of the opposition People's Justice Party (LI member party), poses a violation of international human rights norms and constitutes a mockery of the independence of the Malaysian judicial system

-Recognizing that the case is made even more odious by using for conviction the sodomy laws in the country which take particular aim at the human rights of LGBT communities and should not exist anywhere in the world

People's Republic of China:

-Recognizing that the liberalisation of the economy in the People's Republic of China has led to strong, long-lasting growth lifting millions of Chinese people out of poverty but consistent persecution and prosecution of political dissidents, social activists and religious or ethnic minorities remains as a serious concern

-Regarding the recent sentencing of journalist and dissident Gao Yu for purportedly leaking state secrets as a blatant political persecution in light of the lack of physical evidence and witnesses who can testify as to Yu's alleged state treason

-Expressing great concern that the People's Republic of China now has more journalists in prison than any other country

The Former Yugoslav Republic of Macedonia:

-Regarding the on-going political instability in the country as a potential threat to the stability and security of the wider region

-Expressing concern over the lack of accountability on the part of the government of Prime Minister Nikola Gruevski in light of the recently revealed allegations of indiscriminate wiretappings of members of the opposition, journalists, foreign officials and other prominent members of the community

The Kingdom of Saudi Arabia:

-Emphasizing that the recent sentencing of the Saudi liberal blogger Raif Badawi for freely expressing his views on the arbitrary imposition of religion on people in the Kingdom is cruel, degrading and inhumane and violates the Kingdom's international obligations under both the Universal Declaration of Human Rights and the UN Convention against Torture

-Regarding that the sentencing of Badawi's lawyer, Waleed Abu al-Khair, "for breaking allegiance to the ruler" does not constitute an offence against Islam

-Condemning firmly any form of corporal punishment as an unacceptable and degrading treatment contrary to human dignity

Recalling:

-Its Urgency Resolution on Azerbaijan to 193rd LI Executive Committee meeting in Hong Kong which called on the Azerbaijani government to respect its obligations as Council of Europe member, uphold the values expressed in the UN Human Rights Charter, and end the crackdown on civil society

-Its Written Statement to the 19th Session of UNHRC on human rights defenders in which LI expressed its concern with the growing number of persecutions against human rights defenders around the world

-Its Written and Oral Statements to the 22nd Session of UNHRC on Cuba which called on the international community to demand of the Cuban government to respect the rights of the people to express, affiliate and associate, to immediately release the dozens of political prisoners in Cuba and to stop the arbitrary arrests of peaceful Human Right defenders

-Its World Today Resolution to the 59th Congress in Rotterdam which called for a more liberal, free, competitive, compassionate, equitable and united Malaysia

-Its Written Statement to the 28th Session of UNHRC which called on the Venezuelan government to honour its international obligations and immediately repeal the new military tactics law targeting peaceful domestic demonstrations

-Its appeal letter to the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations in Geneva, His Excellency Jorge Valero, in which LI called on the Venezuelan authorities to respect their international obligations and protect their citizens' basic rights

Calls:

-On the government of Azerbaijan to honour its obligations as a Council of Europe member and a signatory to International Covenant on Civil and Political Rights and immediately put an end to the civil society crackdown and release all prisoners of conscience

-On the government of Bolivarian Republic of Venezuela to immediately repeal the proposed new military tactics law and permit for peaceful domestic demonstrations as is expected of any government and restore democracy, rule of law and freedom of expression in the country

-For the inclusion of the discussion on political freedom and respect for human rights in all trade-negotiations with Cuba

-On the international community to establish an independent commission to investigate the death of Oswaldo Paya without further delay

-For a resolution to the political crisis in the Former Yugoslav Republic of Macedonia within the framework of the rule of law without impunity

-On the Kingdom of Saudi Arabia to halt the corporate punishment against Raif Badawi and secure his immediate release

-On the government of the People's Republic of China and its judicial system to re-examine the case of Gao Yu taking into consideration all factual evidences

-On the United Nations to establish a special procedure mandate focusing specifically on the issue of political prisoners and prisoners of conscience

-On UN Special Mandate Holders to ensure a process of anonymity and impartiality so that victims reporting abuses and human rights violations are not reprimanded and/or prosecuted by the relevant state authorities

-On the UN General Assembly to adopt and implement the proposed "Mandela Rules" which contain a number of practical elements that provide detainees with increased protection from torture and other ill-treatment

Commits:

-For its liberal human rights parliamentarians to continue to work towards giving a voice to the many prisoners of conscience around the world and ensuring that governments which break their international obligations are held to an account

-For its liberal human rights parliamentarians to raise the issue of the growing number of political prisoners around the world directly with the relevant special procedure mandate holders during its annual gathering at the United Nations Human Rights Council on 15 June 2015

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Human rights situations that require the Council's attention

Written statement* submitted by the Human Rights House Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

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Please recycle

Breaking point in Azerbaijan: promotion and glamour abroad, repression and imprisonment at home

Recent years have brought an intensified crackdown on the exercise of fundamental human rights in Azerbaijan that has shocked even seasoned observers. Without any regard for protections under domestic or international law, the authorities in Azerbaijan have targeted journalists, political opposition leaders, grassroots activists, and human rights defenders (HRDs), including lawyers. Central to the government's strategy to suppress criticism is the employment of politically-motivated criminal prosecutions and detentions. To do so, it has amended its legislation since 2009 in order to restrict rights to freedom of expression, association, and peaceful assembly. As a result, civil society in the country has been devastated.

Azerbaijan should put an end to the unprecedented repression against civil society. In order to minimally comply with its international obligations, as well as the UN Human Rights Council resolution 22/6,[1] Azerbaijan must immediately and unconditionally release and rehabilitate the civil and political rights of all prisoners of conscience. We further call upon the authorities to drop all charges and investigations pending against journalists, political opposition leaders, grassroots activists, human rights defenders, lawyers, and their organizations.

We call upon the Human Rights Council to request the United Nations High Commissioner for Human Rights to present to the Human Rights Council, in an interactive dialogue, a comprehensive report on the human rights situation in Azerbaijan and the environment for human rights defenders in the country.

The Azerbaijani authorities should put an end to the unprecedented repression against civil society and also conduct a prompt, thorough and impartial investigation into all cases of detention, torture, and other human rights abuses directed against human rights defenders, journalists and activists, and provide appropriate compensation to the victims of such violations.

The targeting and imprisonment of dissidents has long been a problem in Azerbaijan; however, the current crackdown is notable. Both the scope of the individuals being targeted, including internationally-known and respected HRDs, and the seriousness of the charges and length of prison sentences that are being imposed against them, set the current crackdown apart from past repression. Despite Azerbaijan's commitments under international law, and its repeated promises to the international community to address wrongful imprisonment, it keeps going.

International attention has turned to Baku on a number of occasions. However, events like the 2012 Eurovision contest and the 2015 European Olympic Games all too often become a source of repression at home while the government grandstands its achievements abroad. President Ilham Aliyev has boasted that the world will see a "strong, growing and modern state" during the Games.[2]

The focus on Azerbaijan's "strength," is contrasted by the conduct of the 2013 presidential election. Observers found that the election, in which President Aliyev purportedly gained 85 percent of the vote, failed to meet international standards. Before the election had even begun, political opposition leader Ilgar Mammadov was detained on trumped-up charges. He remains behind bars, although the European Court for Human Rights found his pre-trial detention politically motivated.[3] The Election Observation Mission sent by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) found that the poll was "undermined by limitations on the freedoms of expression, assembly and association that did not guarantee a level playing field for the candidates" and local monitors documented a series

[1] Resolution on the protection of human rights defenders, United Nations Human Rights Council, 21 March 2013, A/HRC/RES/22/6.

[2] President Ilham Aliyev tweet, 3 September 2014, available at https://twitter.com/presidentaz/status/507131564392583168.

[3] *Ilgar Mammadov v. Azerbaijan*, ECtHR, Application No. 15172/13 (13 Oct. 2014), available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-144124.

of violations. After the election, the authorities turned their attention to those who criticized the election – including by arresting and jailing election monitors like Anar Mammadli.

Similarly, statements about "growth" in Azerbaijan must be viewed in light of increasing restrictions on activities of civil society groups, especially those that investigate corruption. While the president points to significant economic growth, observers point to oil and gas revenues rather than genuine business sector growth. Corruption continues to undermine actual economic development. Instead of tackling this problem, authorities have gone after those exposing government corruption. Investigative journalist Khadija Ismayilova, for example, was detained in response to her work uncovering corrupt deals involving those well-connected. The government has also undertaken a campaign that is sure to curtail growth: eliminating independent monitoring bodies and non-governmental organizations (NGOs). Especially problematic are series of administrative laws and amendments passed since 2009 that place draconian restrictions on the registration, operation, and funding of independent groups.

As with claims of growth, President Aliyev's invocation of a "modern" state reflects only the paint and polish of new buildings in Baku, and not democratic progress. During the 2012 Eurovision contest, the authorities seized the opportunity to launch a publicity campaign to display the country's wealth, while human rights defenders and journalists used it to highlight ongoing rights violations. Although they were successful in bringing their message to the world, the government responded harshly with a crackdown that has since that time only intensified. Many have been jailed and their organizations shuttered, effectively turning the lights off on independent civil society. The government has ensured that there will be no locally-directed human rights campaign during the 2015 European Olympic Games in June.

During 2014, the authorities rounded up the county's most well-known civil society leaders and audaciously even targeted those who monitored and documented the cases of political prisoners. Those wrongly detained include: Intigam Aliyev, Leyla and Arif Yunus, Rasul Jafarov, Emin Huseynov, Anar Mammadli, Ilgar Mammadov, Hilal Mammadov, Omar Mammadov, Rauf Mirkadirov, and a number of activists associated with the NIDA youth movement. As of this moment, some of these people are still held on pre-trial detention, others, such as Intigam Aliyev and Rasul Jafarov, were recently sentenced in April 2015 to lengthy periods of imprisonment.[4]

It has been observed that the Azerbaijani authorities use three strategies in imprisoning its critics; its aim being to punish and silence them. First, authorities rely on "patently politically-motivated charges," such as inciting hatred, mass disorder, and treason. Second, authorities have been known to resort to "fabricated charges," including drug and weapon charges, hooliganism, embezzlement, and service forgery. Although here authorities attempt to hide its true motivation, procedural violations and the political context reveal the concealed motivations. Third, the government has more recently confounded and alarmed international observers through the use of special "organization-directed charges" that have targeted primarily the heads of prominent NGOs in Azerbaijan. Such charges include illegal business activity, tax evasion, and abuse of office, and rely upon a deeply flawed legal theory. At their core, these cases involve both an attempt to limit the ability of NGOs to operate and impose criminal charges in response to the good faith perseverance of these groups.

The legal backdrop for this third category of cases, so-called NGO-directed cases, is the sustained refusal of the government to register certain human rights groups (those which are critical of the government) and the increasingly restrictive administrative laws that impose barriers to the registration, operation, and funding of NGOs in Azerbaijan. Although the European Court of Human Rights has repeatedly criticized the failure of Azerbaijani authorities to timely register NGOs often arbitrarily prolonging the process rather than formally rejecting applicants, the practice has continued. The parliament has also adopted a raft of highly restrictive amendments to the country's administrative laws regulating organizations. Although the Venice Commission of the Council of Europe criticized the legal regime in 2011, authorities adopted additional provisions that entered into force in 2013 and 2014 that further restrict the ability of

[4] More information on the sentences of human rights lawyer Intigam Aliyev and human rights defender Rasul Jafarov, respectively available at http://humanrightshouse.org/Articles/20909.html and http://humanrightshouse.org/Articles/20890.html

such groups to operate – critically restricting access to grants for unregistered groups and imposing a variety of onerous reporting requirements.

Whatever the charges employed by the authorities in any particular case, these detentions violate Azerbaijan's obligations under international law because they are politically motivated and intended to silence and punish the peaceful exercise of a fundamental right. International law prohibits arbitrary detention and Azerbaijan is a party to both the European Convention on Human Rights and the International Covenant on Civil and Political Rights. The politically motivated imprisonment of peaceful human rights defenders, journalists and activists in Azerbaijan violates the prohibition on arbitrary detention (including the legally unjustified use of pre-trial detention), procedural fair trial rights, and a number of substantive human rights, such as freedom of expression, association, and assembly.

The present submission to the Human Rights Council is based on a report published jointly by Freedom Now and the Human Rights House Network, available at http://humanrightshouse.org/Articles/20947.html.

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Human Rights Council
Twenty-ninth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Aliran Kesedaran Negara National Consciousness Movement, non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-09265 (E)

1509265

Please recycle

Crackdown on freedom of expression and assembly in Malaysia

There has been a serious regression in Malaysia's democratic space in 2015, with the government's crackdown on freedom of speech and assembly, predominantly through the use of the Sedition Act 1948, Peaceful Assembly Act 2012, and various sections of the Penal Code.

Freedom of speech and expression is enshrined in Article 10(1)(a) of the Federal Constitution of Malaysia. However, the guarantee of such a right is severely limited and qualified by broad provisions in Article 10(2)(a), which stipulates that Parliament may impose *"such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof"*. Similarly, the freedom of assembly is enshrined in Article 10(1)(b) of the Constitution, but is restricted through Article 10(2), 10(4) and Article 149 of the Constitution.

But it is arguable whether the action done in exercising these constitutional human rights do pose threats to national security, justifying their restriction, as none of them intended to incite violence or hatred against the government or any other party.

Alarming increase in the use of the Sedition Act to crackdown on freedom of expression

At the United Malay National Organisation (Umno) General Assembly in November 2014, Malaysian Prime Minister Najib Razak conceded to extremists in Umno and reversed his public promises to repeal the Sedition Act.[1] On 27 September 2014, Najib Razak not only reneged on his pledge to abolish the Act, but announced that he would *"fortify"* it to protect Islam and other religions and address calls for secession in the East Malaysian states of Sabah and Sarawak.

The announcement was a shock as it contravened his 2012 electoral pledge[2] to repeal the law as part of his legislative reforms to uphold civil liberties. Najib again attested to this promise during a BBC News interview in July 2013[3]. A stark increase in the use of the Sedition Act from 2012 to 2015 has seen 71 people investigated, 53 charged, and 5 convicted under the act.

In September 2014, student activists Safwan Anang and Adam Adli were convicted of sedition and sentenced to 10 and 12 months prison respectively for speeches they made about alleged electoral fraud, calling for street protests at a post-election rally in May 2013.

On 10 February 2015, Opposition leader Anwar Ibrahim was jailed for five years on what many believe to be politically motivated trumped-up charges of sodomy. Activists who took to Twitter to express their dissatisfaction were arrested and questioned by police. Those targeted included cartoonist Zulkiflee Anwar Haque, MP Nga Kor Ming, MP Rafizi Ramli and Parti Sosialis Malay (PSM) Secretary-General S. Arutchelvan. The IGP later defended his harassment on Twitter and admitted that he was targeting politicians and NGO leaders with large Twitter followings.

Since 2009, political cartoonist Zulkifli SM Anwarul Haque, better known by his pen name Zunar, has been investigated and arrested under the Sedition Act by the government for producing comics that were allegedly detrimental to public order. The government's determination to persecute Zunar has extended to his printers, vendors, online service provider and book store owners, whose places of business were raided by police officers.[4]

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1 The Malaysian Insider – Sedition Act stays, says Najib, 27 November 2014 - http://www.themalaysianinsider.com/malaysia/article/sedition-act-stays-says-najib

2 The Malaysian Insider – Najib: Sedition Act to be repealed, 11 July 2012 - http://www.themalaysianinsider.com/malaysia/article/najib-sedition-act-to-be-repealed

3 British Broadcasting Corporation (BBC) News – Malaysia PM Najib Razak makes sedition pledge, 2 July 2013 - http://www.bbc.com/news/world-asia-23145379

4 Malaysiakini – Ministry appeal against lift of ban on Zunar's books, 11 November 2014 - http://www.malaysiakini.com/news/280153

On 3 April 2015, Zunar was charged with nine counts of sedition for tweets he wrote in February 2015 criticising the Anwar Ibrahim sodomy conviction, and faces up to 43 years imprisonment. He is awaiting trial on 7 July 2015.

On 10 April 2015, Malaysian lawmakers passed controversial amendments to the Sedition Act that pose an even greater threat to freedom of expression. The amendments removed two categories from the definition of seditious tendency - *'exciting disaffection against the government and against the administration of justice'* However, the amendments added the offence of *'stirring up ill-will, hostility or hatred on the grounds of religion'* The broad definitions for "seditious tendency" remain arbitrary and have the effect of capturing any legitimate and constructive criticism against the establishment.

The amended Act creates "aggravated" sedition for offences that lead to bodily harm or property damage. The 'importing seditious publications offence' was replaced with the 'propagating seditious publications offence'. Many fear the vague definition of "propagating" will mean the end of the relatively free use of social media in Malaysia to criticise the government. Home Minister Ahmad Zahid Hamidi's statements that the amendments were meant to handle "threats" on social media substantiate this.[5] The Act has removed judicial discretion in imprisonment and provides for mandatory jail terms of between three and seven years for those found guilty.

Comments deemed seditious include law Professor Dr Azmi Sharom's remarks on a political crisis[6]; journalist Susan Loone's reporting on a statement by a politician in an interview[7]; and MP Nurul Izzah's parliamentary speech on her father Anwar Ibrahim's imprisonment.

Recent crackdown on freedom of assembly

Since 2008, Malaysian civil societies have increasingly organised peaceful street protests to highlight the urgent need for electoral reform and human rights despite legislation such as the Police Act 1967 that required protestors to apply for a permit to hold marches and rallies under Section 27(2) or face fines of between RM2,000 and RM10,000 or one year in jail.

The provisions under the Police Act restricting public assemblies were repealed, but were replaced by the Peaceful Assembly Act 2012 which has proved to be more restrictive[8] .According to a booklet produced by the information Department[9], it is meant to prevent street protests such as the 28 April 2013 Bersih 3.0 protests that demanded electoral reform.
Since its tabling, it has been used to selectively prosecute Opposition politicians and activists who take part in or are alleged to have organised street protests.[10] Among the provisions in the Peaceful Assembly Act that restrict freedom of assembly is the requirement for organisers to send written notice of a public assembly to the police 10 days prior to the event or it will be an offence under Section 9(5) of the Act.

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5 The Malay Mail Online – Sedition Act expanded to protect you on social media, Zahid tells Malaysians, 11 April 2015 -http://www.themalaymailonline.com/malaysia/article/sedition-act-expanded-to-protect-you-on-social-media-zahid-tells-malaysians

6 The Malay Mail Online – UM law professor latest caught in Putrajaya's sedition dragnet, 1 September 2014 http://www.themalaymailonline.com/malaysia/article/um-law-professor-latest-caught-in-putrajayas-sedition-dragnet

7 The Malaysian Insider – Journalist Susan Loone arrested in Penang over 'seditious' article, 4 September 2014 - http://www.themalaysianinsider.com/malaysia/article/journalist-susan-loone-arrested-in-penang-over-seditious-article

8 New Mandala – Malaysia Assembling the Peaceful Assembly Act, 6 December 2011 - http://asiapacific.anu.edu.au/newmandala/2011/12/06/malaysia-assembling-the-peaceful-assembly-act/

9 Deaprtment of Information Malaysia – Akta Perhimpunan Aman 2012 (Peaceful Assembly Act 2012), March 2013 - https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CC0QFjAC&url=http%3A%2F%2Fwww.penerangan.gov.my%2Findex.php%2Fbm%2Fe-book%2Fdoc_download%2F330-akta-perhimpunan-aman-2012&ei=LMVQVfl7z5O4BP-dgaAP&usg=AFQjCNFEOl2XyxhDcla8yiwwj60pLafgxA&sig2=2NpS0dXQA6bSALnm5vtoUw&bvm=bv.92885102,d.c2E

10 The Malaysian Insider – Lawyers cry foul as 3 more activists are to be recharged under assembly law tomorrow, 8 May 2014 - http://www.themalaysianinsider.com/malaysia/article/lawyers-cry-foul-as-3-more-activists-are-to-be-recharged-under-assembly-law

But on 25 April 2015 the Court of Appeal ruled that it was unconstitutional to criminalise protests that breached the 10-day notice requirement.[11] To date, however, a total of 49 people have been arrested and investigated under the Peaceful Assembly Act including state assemblyperson Nik Nazmi[12]. A further 87 people have been charged, including 50 activists protesting the newly introduced Goods and Services Tax[13].

The government has resorted to the use of Section 143 of the Penal Code to detain participants and organisers of protests for unlawful assembly. Most recently, there was a crackdown on participants, opposition politicians and social activists who took part in the 1 May 2015 Workers Day rally to protest the recently introduced Goods and Services Tax (GST). Police detained prominent lawyer and human rights' activist Ambiga Sreenevasan; MPs Anthony Loke and Dr Hatta Ramli; and PSM secretary-general S. Arutchelvan in connection with the protest.[14] Twenty-three youths were also remanded for four days over the same protest under Section 143.[15]

Recommendations

The use of the Sedition Act and Peaceful Assembly Act seriously threaten freedom of expression and assembly in Malaysia. We entreat the UN Human Rights Council to make urgent representations to the Malaysian government urging them to:

- Cease all human rights violations occurring in Malaysia and urge an immediate end to the harassment, persecution, and arbitrary arrest of those exercising their freedom of expression and assembly
- Repeal the 1948 Sedition Act and amendment or repeal all laws which are not in line with international standards, including the 2012 Peaceful Assembly Act; the 1972 Official Secrets Act; and the 1984 Printing Presses Publications Act.
- Drop all sedition and anti-peaceful assembly charges with immediate effect
- Revise the Malaysian Communications and Multimedia Act to safeguard freedom of information and expression on the internet
- Extend an immediate invitation to the United Nations Special Rapporteurs on Freedom of Assembly and Association and Freedom of Expression to conduct an urgent country visit to Malaysia.

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*Suara Rakyat Malaysia (Suaram) NGO without consultative status, also shares the views expressed in this statement.

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11 The Malay Mail Online – Assembly law cannot criminalise public gatherings, court rules, 25 April 2014 - http //www themalaymailonline com/malaysia/article/assembly-law-cannot-criminalise-public-gatherings-court-rules

12 Malaysiakini – PKR's Nik Nazmi detained over Kita Lawan, 8 March 2015 - http //www malaysiakini com/news/291305

13 The Malaysian Insider – 50 charged over staging anti-GST protest, 23 April 2015 - http //www themalaysianinsider com/malaysia/article/50-charged-over-staging-anti-gst-protest

14 The Malaysian Insider – Ambiga, 3 others freed after a night in lock-up, 2 May 2015 - http //www themalaysianinsider com/malaysia/article/ambiga-3-others-freed-after-a-night-in-lock-up

15 The Malaysian Insider – Remand extended a day for 23 youths held over Workers Day rally, 4 May 2015 - http //www themalaysianinsider com/malaysia/article/remand-extended-a-day-for-23-youths-held-over-workers-day-rally

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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GE.15-09269 (E)

1509269

Please recycle

The Human Rights Council must urge States to reform discriminatory abortion laws [1]

"Every now and then there comes along a case that seems too tragic to comprehend- where cruelty from one individual to another is compounded and amplified by a callous governmental response. That is how I feel about the case of a 10-year-old pregnant girl, who was raped by her step-father, only to find the Paraguayan authorities are denying her the option of an abortion" Guadalupe Marengo, Amnesty International [2]

At the 29th session of the UN Human Rights Council, the Working Group on the elimination of discrimination against women (the Working Group) will present, among others, reports on its visits to Chile, Peru and Spain. In its preliminary observations on those country visits the Working Group expressed concerns about the criminalization of abortions under all circumstances, restrictions on access to therapeutic abortions, and proposed restrictions to legislation that could jeopardize women's access to legal abortions.

Women and girls continue to see their health and lives being put at risk and face multiple other human rights violations within the criminal justice system because of discriminatory laws, which criminalise or restrict access to health information and services, such as abortion, needed only by them. Women and girls from already marginalised groups, such as the poor, are often disproportionately affected by such laws.

It is well recognized that criminalization of abortion compels women and girls to undergo illegal abortions and that many of them die as a result of such clandestine and unsafe abortions. Unsafe abortion is the third leading cause of maternal mortality globally, causing about 47,000 deaths per annum, and 5 million largely preventable disabilities, according to the World Health Organisation's (WHO) estimates. The WHO figures reflect that globally deaths and morbidity resulting from abortion are high in countries where access to abortion is legally restricted.

Chile, El Salvador and **Nicaragua** are among the few countries in the world that criminalise abortion in all circumstances, without the possibility of exceptions, even when a woman or girl's life is in danger. There are other countries with highly restrictive laws, which allow for few exceptions, for example only when the pregnancy poses a 'real and substantive risk' to a woman's life (**Ireland**), when a woman's life is at risk (e.g. **Paraguay**) or when a woman's life or physical health are at risk (e.g. **Peru**). However, even on these minimal grounds women and girls may not be able to access abortions when they are legally entitled to receive one.

The Working Group has expressed support for the Bill that has been presented to the Chilean Congress, which would decriminalize abortion where there is a "danger to the woman's life, rape or non-viability of the foetus". It also recommended decriminalization of abortion when the pregnancy constitutes a threat to a woman's mental or physical health. The Bill is pending.

The criminalization of abortion, both in cases of total abortion bans and of highly restrictive abortion laws, is discriminatory and obstructs the access women and girls have to necessary health services, and puts their health and lives at risk. This often disproportionately affects women and girls who do not have the means to seek a safe and legal abortion in another country or to pay for expensive illegal abortions in private clinics in the country. It can also have a chilling effect on access to legal abortion.
Women and girls can also be denied access to health care treatment for serious medical conditions such as cancer or lupus for example on the grounds that treatment may damage the foetus.

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[1] **A version of this statement published on the Amnesty International website includes footnotes and other information** AI Index IOR 40/1704/2015, https://www.amnesty.org/en/documents/ior40/1704/2015/en

[2] https://www.amnesty.org/en/articles/blogs/2015/05/torturing-a-10-year-old-rape-victim-how-the-paraguay-authorities-are-complicit-in-a-pregnant-girls-suffering/

Women and girls, often as young as 10-14 years of age, who are pregnant as a result of incest or rape are denied legal abortion and compelled to carry pregnancy to term, regardless of their wishes, with negative short and long-term physical and mental health consequences. Multiple human rights treaty bodies have concluded that such denial of legal abortion to victims of incest or rape amounts to a breach of their right to be free from cruel, inhuman or degrading treatment, as well as a violation of their right to redress and reparation. The Working Group, together with other Special Procedures, has also condemned the denial of abortion to a young rape victim as a potential violation of the "rights to life, to health, and to physical and mental integrity of the girl as well as her right to education, jeopardising her economic and social opportunities".

In addition, women and girls who seek post-abortion care in the health system after having undergone unsafe clandestine abortions are being reported to law enforcement officials by the health professional assisting and can face criminal charges. In **El Salvador**, many women serving long-term prison sentences on pregnancy-related charges have been reported by medical providers when seeking medical care for complications of illegal abortion or miscarriages.

The criminalization of abortion creates also the so called "chilling effect" on health care providers and deters them from providing post-abortion care and abortion even when legal, due to the fear of criminal prosecution or because they are unclear about how to interpret the law.

In **Ireland**, where in addition to criminalization of abortion in most cases, the provision of abortion-related information is also criminalized and this creates a huge obstacle for medical providers to perform timely referrals to safe abortion providers in the UK (where women in Ireland are forced to travel to undergo safe abortions) and results in women having to rely on informal networks or experiencing delays in accessing necessary health services.

The stigma around abortion and the chilling effect that criminalization of abortion has result in inadequate reporting of abortions and of maternal mortality and morbidity. For example, whilst data indicates that **Chile** has one of the lowest maternal mortality rates in the Latin American region, these numbers are likely much higher, but due to the illegal status of abortion the true numbers are not accurately reflected.

Criminalisation of abortion is rooted in persistent gender discrimination and stereotypes around women's primary role as child bearers and mothers, including through placing unreasonable obligations on women and girls to protect foetal life to the detriment of their rights. The Working Group has noted the vital importance of article 5 of the Convention on the Elimination of All Forms of Discrimination against Women, which requires States to eliminate prejudices and modify stereotyped gender roles. These harmful stereotypes have negatively influenced the development of laws, policies and practices around the world, including the total ban on abortion, its criminalization and the response by the health care and criminal systems.

Even countries like **Spain**, which have repealed draconian abortion laws, have recently been under pressure by conservative interest groups to restrict access to safe and legal abortion services. Although the government of Spain withdrew an initial retrogressive abortion bill which would have violated women and girls fundamental human rights, it has put forward a new proposal, which would restrict access to safe abortion for 16-17 year old girls and some women with mental disabilities by requiring them to obtain parental or guardian consent before they can access safe and legal abortion services. This proposal also goes against the recommendation by the Committee on Economic, Social and Cultural Rights that urged Spain to fully implement the existing law and ensure access to safe and legal abortion services for all women, paying special attention to the situation of adolescents and migrants. The Working Group has expressed concern about the obstacles that parental/guardian consent and conscientious objection by medical professionals may pose on women's access to legal abortions.

Recommendations

Amnesty International urges HRC members and observer states to raise the concerns expressed in this statement in HRC debates and in bilateral dialogues with concerned countries, including the ones mentioned in this statement.

It calls on the HRC to urge States to:

- Repeal laws that criminalize abortion and the provision of abortion-related information, eliminate all punitive measures for women and girls seeking abortion, and for health care providers and others performing abortions or assisting in obtaining such services where consent is fully given;
- Ensure access to abortion both in law and in practice, at a minimum, in cases where pregnancy poses a risk to the life or to the physical or mental health of a pregnant woman or girl, in cases of severe and fatal fetal impairment, and in cases where the pregnancy is the result of rape or incest;
- Ensure that when abortion is legal, it is available, accessible and of good quality for all women and girls without coercion or discrimination, provided with respect for privacy and confidentiality, and without additional barriers such as the requirement for a third party consent;
- Ensure that all laws and practices clearly establish the duty of health care providers to respect patient confidentiality, including by not reporting women and girls suspected of undergoing abortions and those who have had miscarriages to law enforcement authorities;
- Immediately and unconditionally release all women and girls who have been detained or imprisoned in relation to undergoing abortions or for having miscarriages, and drop charges against women and girls whose cases are pending trial;
- Tackle abortion-related stigma and take measures to eliminate gender discrimination and harmful stereotypes about gender roles, which are behind the denial of health services to women and girls.